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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/530,534	09/21/2005	Ulrik Skovgaard Rasmussen	GRP-0120	4723

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CANTOR COLBURN, LLP
55 GRIFFIN ROAD SOUTH
BLOOMFIELD, CT 06002

EXAMINER

COLLINS, MICHAEL

ART UNIT	PAPER NUMBER
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3651

MAIL DATE	DELIVERY MODE
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04/30/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/530,534

Applicant(s)

RASMUSSEN, ULRIK
SKOVGAARD

Examiner

Michael K. Collins

Art Unit

3651

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) 1-15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 16-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>04/06/2005</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 16-18, 20-22, and 24-28 are rejected under 35 U.S.C. 102(e) as being anticipated by Credle, JR. et al. (USPGPUB 2003/0160059).

Regarding claim 16, Credle, JR. et al. disclose a confectionery dispenser comprising:

- at least two confectionery article magazines (1470), each said at least two confectionery article magazines comprising a magazine outlet (1475) being coupled with at least one confectionery article dispenser outlet (1550) by means of at least one magazine discharge arrangement (1400)

- said magazine discharge arrangement (1400) comprising at least one confectionery article fitting compartment (1420) adapted for performing a movement relative to said magazine outlets upon activation of an activation arrangement (1405) and thereby transferring at least one confectionery article (105) comprised in at least one confectionery, article magazine (1470) to at least one output compartment (1480)
- said at least one output compartment (1480) being adapted for performing a rotating movement upon activation of said activation arrangement (1405) and thereby transferring at least one confectionery article (105) comprised in at least one of said output compartments to said dispenser outlet (1550).

Regarding claim 17, Credle, JR. et al. disclose the confectionery dispenser according to claim 1, wherein said confectionery article magazines are exchangeable.

Regarding claim 18, Credle, JR. et al. disclose the confectionery dispenser according to claim 1, wherein said output compartment is mechanically coupled with said at least one outlet and thereby facilitating a transfer of at least one confectionery article upon activation of said activation arrangement (see paragraphs [0093]-[0100]).

Regarding claim 20, Credle, JR. et al. disclose the confectionery dispenser according to claim 1, wherein the activation arrangement (1405) is automatically driven.

Regarding claim 21, Credle, JR. et al. disclose the confectionery dispenser according to claim 1, wherein said article comprises chewing gum packages (see paragraph [0094]).

Regarding claim 22, Credle, JR. et al. disclose the confectionery dispenser according to claim 1, wherein said magazine discharge arrangement comprises at least one confectionery article fitting compartment being rotatable upon activation by said activation arrangement (see paragraph [0097]).

Regarding claim 24, Credle, JR. et al. disclose the confectionery dispenser according to claim 1, wherein said magazines are fitted in a substantially circular profile, when seen from above.

Regarding claim 25, Credle, JR. et al. disclose the confectionery dispenser according to claim 1, wherein the magazines define an orientation of the magazine contained article.

Regarding claim 26, Credle, JR. et al. disclose the confectionery dispenser according to claim 1, wherein the magazines are substantially translucent, thereby facilitating that a user of the dispenser may visually see at least some of the magazine contained articles (see Figure 23).

Regarding claim 27, Credle, JR. et al. disclose the confectionery dispenser according to claim 1, wherein the magazines are arranged within a substantially translucent housing (see Figure 23).

Regarding claim 28, Credle, JR. et al. disclose the confectionery dispenser according to claim 1, wherein said confectionery articles are fed to said discharge arrangement by means of at least two confectionery article holding magazines (see paragraphs [0098]-[0100]).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. Claims 19 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Credle, JR. et al. (USPGPUB 2003/0160059).

Regarding claim 19, Credle, JR. et al. disclose a confectionery dispenser according to claim 1. However, they do not specifically disclose a dispenser wherein the activation arrangement is manually driven. Yet, the replacement of a manual operation with an automatic operation is a design consideration within the skill of the art. In re Venner, 262 F.2d 91, 120 USPQ 192 (CCPA 1955).

Regarding claim 23, Credle, JR. et al. disclose a confectionery dispenser according to claim 1, wherein said magazines are fitted to the dispenser in a substantially vertical direction (see Figure 24). However, he does not disclose a dispenser thereby obtaining a gravity facilitated emptying of the magazines into lower

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compartments when activating the magazine discharge arrangement. Yet, the reversal of components in a prior art reference, where there is no disclosed significance to such reversal, is a design consideration within the skill of the art. In re Gazda, 219 F.2d 449, 104 USPQ 400 (CCPA 1955); In re Japikse, 181 F.2d 1019, 86 USPQ 70 (CCPA 1950).

Conclusion


7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael K. Collins whose telephone number is (571) 272-8970. The examiner can normally be reached on 8:30 am - 5:00 pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene O. Crawford can be reached on (571) 272-6911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

M.C.
4/25/2007


GENE O. CRAWFORD
SUPERVISORY PATENT EXAMINER